

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

DE'ANDRE ANTHONY JOHNSON, )  
                                  )  
                                  )  
Plaintiff,                   )  
                                  )  
v.                             )                                   Case No. CIV-08-1392-D  
                                  )  
                                  )  
CITY OF OKLAHOMA CITY, *et al.*, )  
                                  )  
                                  )  
Defendants.                   )

**ORDER OF DISMISSAL**

By Order of March 13, 2009, the Court extended the deadline for Plaintiff either to pay an initial partial filing fee of \$10.00 or to show cause for nonpayment, as required by the order of United States Magistrate Judge Bana Roberts granting Plaintiff's motion to proceed *in forma pauperis* and assessing a partial fee pursuant to 28 U.S.C. § 1915(b)(1). *See* Order 1/6/09 [Doc. 5]. The Court found that additional time for compliance with Judge Roberts' Order was appropriate based on correspondence from Plaintiff, who appears *pro se*, that reflected a misunderstanding of his payment obligations. The Court expressly stated that if Plaintiff failed to comply by March 25, 2009, the Court would enter an order adopting the Report and Recommendation issued by Judge Roberts and dismissing this action without prejudice to refiling. *See* Order 3/13/09 [Doc. 8] at 2.

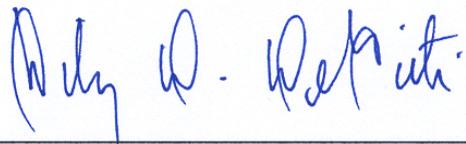
On March 26, 2009, Plaintiff filed a paper entitled "Response and Order" requesting that the Court again extend the deadline for payment of the \$10.00 fee and order "his custodial agency's officials to collect the initial filing fee from his account 'when funds exist' so the initial filing fee can be paid in a timely manner." *See* Pl's Resp. [Doc. 9] at 1-2. Plaintiff refers to earlier correspondence in which he stated that the Oklahoma County Detention Center had not offered him a disbursement form to authorize payment from his account. *See* Letter [Doc. 7]. Thus, it is unclear

from Plaintiff's filing whether his position is that he currently lacks funds to pay the \$10.00 fee or that he lacks a means of forwarding the payment to the Court.

The Court finds Plaintiff's vague statements to be insufficient to establish good cause for his noncompliance with prior orders or for further extending the deadline to comply. Notwithstanding Plaintiff's alleged difficulties with officials at the Oklahoma County Detention Center, a review of Plaintiff's *in forma pauperis* motion and supporting documentation reveals that his source of income is gifts from family members who provide money for Plaintiff's personal needs and have made regular deposits to his account of \$50.00 per month, at the least.<sup>1</sup> Thus, it appears that Plaintiff had a means to accomplish the \$10.00 fee payment in recent months, if he so desired.

IT IS THEREFORE ORDERED that the Report and Recommendation [Doc. 6] is adopted. This action is dismissed without prejudice to refiling for failure to pay the required fee.

IT IS SO ORDERED this 31<sup>st</sup> day of March, 2009.



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TIMOTHY D. DEGIUSTI  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> In December, 2008, the most recent month shown by account statements, Plaintiff received deposits of \$50.00 and \$60.00. *See* Pl's Motion [Doc. 2] at 9.